

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	William T. Hart	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	07 C 6745	DATE	August 20, 2008
CASE TITLE	Baxter vs. Kawasaki Motors Corp., U.S.A.		

## DOCKET ENTRY TEXT

Plaintiff's motion for reconsideration [45] is denied. Plaintiff's motions to file a second amended complaint [45, 46] are granted. The judgment entered on July 21, 2008 is vacated. Count III of the second amended complaint is dismissed. By September 10, 2008, defendants shall answer the remaining counts of the second amended complaint. By no later than October 3, 2008, plaintiff shall file his motion for class certification. A status hearing will be held on October 8, 2008 at 11:00 a.m.

■ [ For further details see text below.]

Notices mailed by Judicial staff.

## STATEMENT

This court has discretion to entertain the merits of plaintiff's reconsideration arguments. See United States ex rel. Bidani v. Lewis, 2001 WL 747524 \*2 (N.D. Ill. June 29, 2001). Plaintiff does not raise any argument that has not already been considered and all the arguments were adequately addressed in the July 17, 2001 Order. The prior decision will not be modified. However, plaintiff also submits a proposed second amended complaint that contains additional allegations making clear plaintiff alleges that, after manufacture, either a software device was added to the odometer of his motorcycle or the odometer was otherwise modified. Consistent with the July 17, 2001 Order, such allegations may support a cognizable claim. Therefore, the judgment of dismissal will be vacated and plaintiff will be permitted to file his proposed amended complaint. Count III of the second amended complaint, though, contains the same deficiency as Count III of the original complaint. Count III of the second amended complaint will be dismissed. Defendants will be required to answer Counts I and II of the second amended complaint. Plaintiff must promptly move for class certification.

Courtroom Deputy  
Initials:

cw

U.S. DISTRICT COURT  
CLERK  
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